

CODE

CLARK COUNTY, NEVADA

(Codified through Ordinance 3757 adopted March 18, 2009)

Chapter 6.13 - PUBLIC UTILITIES

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6.13.010 Definitions. As used in this chapter, unless the context otherwise requires, the following words will have the meaning ascribed to them as follows:

- (1) "County" means the unincorporated area of the county including the unincorporated towns.
- (2) "Customer" or "customer located within the county," means a person who, or government that, at any place within the boundaries of the unincorporated area of the county including the unincorporated towns receives any telecommunications or personal wireless service, or uses electric energy or gas provided by a public utility. Personal wireless service shall be deemed to be received at the customer's billing address. However, effective August 1, 2002, personal wireless service shall be deemed to be received at the customer's "place of primary use" as defined herein and as defined in 4 United States Code Section 124(8) on August 1, 2002.
- (3) "Delinquent amount" means any portion of a fee collected from a customer by a public utility that is not paid to the department by the date the fee is due.
- (4) "Department" means the department of business license of Clark County.
- (5) "Interstate retail purchaser of energy" means any person who purchases electric energy or gas for consumption from a seller that is not required to be licensed as a provider of electric energy or gas pursuant to this chapter and that purchased energy is transported, transmitted, distributed or otherwise delivered to a location within the county by public utility licensed pursuant to this chapter.
- (6) "Line of access" means an "access line" as defined in NAC 703.2502.
- (7) "Month" means a calendar month, or a portion thereof, when calculating the penalty to be assessed due to the late payment of a fee.
- (8) "Person" means a natural person, any form of business or social organization and any other legal entity including, but not limited to, a corporation, partnership, association, trust, not-for-profit company or corporation, state or local governmental entity or agency, unincorporated organization, or the estate of a natural person.

(9) "Personal wireless service" has the meaning assigned to it in 47 U.S.C. Section 332(c)(7)(C) on July 16, 1997.

(10) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:

- (A) The residential street address or the primary business street address of the customer; and
- (B) Within the licensed serving area of the home service provider.

(11) "Public utility" means any person that:

(A) Is a telecommunications carrier as that term was defined in 47 U.S.C. Section 153 on July 16, 1997, if the person holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada and derives intrastate revenue from the provision of telecommunications service to retail customers;

(B) Sells or resells personal wireless service; or

(C) Provides electric energy or gas, whether or not the person is subject to regulation by the Public Utilities Commission of Nevada.

(12) "Revenue" does not include:

(A) Any proceeds from the interstate sale of natural gas to a provider of electric energy which holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada.

(B) Any revenue of a provider of a telecommunications service other than intrastate revenue that the provider collects from retail customers.

(C) Write offs for bad debt.

(D) Amounts due from the fraudulent or otherwise unlawful receipt of telecommunications service, personal wireless service, electric energy or gas which are legally uncollectible or required to be refunded.

(E) An excluded amount equal to forty-five percent of the revenue from customers located within the county for electric energy or gas when the public utility sells the electric energy or gas to a customer located within the county. The exclusion rate will be reduced by ten percentage points on April 1st of each year commencing on April 1, 2005, until such exclusion percentage equals zero.

(F) Any tax on fuel or retail sales that is collected by any public utility.

(13) "Telecommunications service" has the meaning assigned to it in 47 U.S.C. Section 153, but does not include any telecommunications service provided by a seller or reseller of personal wireless service.

(Ord. 3189 § 1, 2005: Ord. 2840 § 1, 2002: Ord. 2734 § 1, 2002: Ord. 2093 § 1, 1998: Ord. 1963 § 4, 1997)

6.13.020 Quarterly license fee--Telecommunications service. (a) Every public utility providing any telecommunications service to any customer located within the county must have a valid unexpired business license issued pursuant to this code and remit to the department a quarterly license fee that it has collected from its customers, except as provided for in Section 6.13.050 of this chapter.

(b) The quarterly license fee required in subsection (a) of this section will be:

(1) Due not later than sixty calendar days after the end of each calendar quarter.

(2) Five percent of the gross revenue earned during the calendar quarter from customers located within the county. This rate is comprised of a four percent business license fee and a one percent

right-of-way fee. Effective October 1, 2005, this rate will be comprised of a five percent business license fee.

(c) "Gross revenue," for the purposes of this section, means all revenue earned directly or indirectly from the provision of intrastate telecommunications services to customers located within the county, except for revenue earned from the provision of services to other telecommunications carriers holding a certificate of public convenience and necessity from the Public Utilities Commission of Nevada or to sellers or resellers of personal wireless service.

(d) Every public utility providing any telecommunications service to any customer located within the county that is subject to a franchise agreement with the county may subtract one-fourth of the amount paid in July, pursuant to the provisions of NRS 709.110, 709.230 or 709.270 from each of the four succeeding quarterly payments of business license fees due. The subtraction is limited to the total fees due under this chapter.

(e) Every public utility that provides any telecommunications service that has an agreement with a third party for billing and/or collecting revenue and the fees pursuant to this chapter and does not receive these fees must provide the department with a copy of the agreement with the third party and is required to pay a quarterly administrative charge of twenty-five dollars that is due not later than sixty calendar days after the end of the calendar quarter.

(Ord. 3189 § 2, 2005: Ord. 2734 § 2, 2002: Ord. 2093 § 2, 1998: Ord. 1963 § 5, 1997)

6.13.030 Quarterly license fee--Personal wireless service. (a) Every public utility that sells or resells a personal wireless service to any customer located within the county must have a valid unexpired business license issued pursuant to this code and pay a quarterly license fee that it has collected from its customers, except as provided for in Section 6.13.050 of this chapter.

(b) The quarterly license fee required in subsection (a) of this section will be:

(1) Due not later than sixty calendar days after the end of each calendar quarter.

(2) Five percent of the public utility's gross revenue from the first fifteen dollars charged monthly for each line of access for each of the public utility's customers located within the county. This rate is comprised of a four percent business license fee and a one percent geographic information service fee. Effective October 1, 2005, this rate will be comprised of a five percent business license fee.

(c) "Gross revenue," for the purposes of this section, means all revenue earned from the first fifteen dollars charged monthly for each line of access for each of the public utility's customers located within the county.

(Ord. 3189 § 3, 2005: Ord. 2734 § 3, 2002: Ord. 2093 § 3, 1998: Ord. 1963 § 6, 1997)

6.13.040 Quarterly license fee--Electric energy or gas. (a) Every public utility providing electric energy or gas to any customer located within the county must have a valid unexpired license issued pursuant to this code and pay a quarterly license fee that it has collected from its customers.

(b) The quarterly license fee required in subsection (a) of this section will be:

(1) Due not later than sixty calendar days after the end of each calendar quarter.

(2) Five percent of the gross revenue earned during the calendar quarter from customers located within the county. This rate is comprised of a four percent business license fee and a one percent right-of-way fee. Effective October 1, 2005, this rate will be comprised of a five percent business license fee.

(c) "Gross revenue," for the purposes of this section, means all revenue earned directly or indirectly from the provision of electric energy or gas to customers located within the county.

(d) Commencing with the calendar quarter beginning October 1, 2003, every interstate retail purchaser of energy shall be required to remit to the department within sixty days after the end of each calendar quarter a total fee of five percent (less the applicable exclusion rate described in this chapter) of the purchase price and transportation charge of the energy received by the public utility providing transportation, transmission, or distribution services of energy less the amount of tax paid, pursuant to this chapter, to the public utility holding a valid business license in the county that provided transportation of the energy. This fee may be offset, to the extent of the fee required by this chapter, by any taxes paid by the purchaser on such energy received at a location within unincorporated Clark County to a seller in another state with the submission of proof of payment of said taxes.

(Ord. 3189 § 4, 2005: Ord. 2840 § 2, 2002: Ord. 2734 § 4, 2002: Ord. 2093 § 4, 1998: Ord. 1963 § 7, 1997)

6.13.050 Registration requirements. Any person conducting a telecommunications or personal wireless business whose revenue is subject to fees pursuant to this chapter that would result in or is expected to result in a total quarterly fee of less than fifty dollars may register with the department in lieu of applying for a business license, except for those persons that also have a current franchise agreement with the county to provide telecommunications or personal wireless services identified in this chapter. The registration must be filed with the department on a form specified by the directory at least thirty calendar days prior to commencing business. An annual report of revenue subject to the fees that are imposed under this chapter per calendar quarter is due from all registrants within sixty days after the end of each calendar year. Any person who has registered or is subject to registration shall apply for a business license pursuant to this chapter within thirty calendar days after the calendar quarter that fees required to be collected under this chapter are equal to or are greater than fifty dollars.

(Ord. 3189 § 6, 2005: Ord. 2734 § 11, 2002)

6.13.060 Fee--Paid after due--Penalty. If any fee required to be paid by the provisions of this chapter is received by the department, after the due date, a penalty of two percent of the delinquent amount will be assessed to the public utility per month, or fraction thereof, until past due fees are paid in full to the department. A public utility to which this chapter applies shall not collect from a customer any penalties or interest assessed pursuant to this chapter.

(Ord. 3189 § 7, 2005: Ord. 2093 § 11, 1998: Ord. 1963 § 14, 1997)

6.13.070 Fee--Total amounts. The total amount of all fees paid pursuant to this chapter by a public utility other than a public utility that sells or resells personal wireless service shall not exceed five percent of the utility's gross revenue from customers located within the county. The total amount of fees paid pursuant to this chapter by a public utility that sells or resells personal wireless service shall not exceed five percent of its gross revenue from the first fifteen dollars charged monthly for each line of access for each of its customers located within the county. As used in this section, "fees" means the business license, right-of-way management, and geographic information system fees required to be paid by this chapter and the franchise or right-of-way fees required to be paid by any franchise or license agreement between the county and any public utility, except any amount paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270.

(Ord. 3189 § 8, 2005: Ord. 2093 § 12, 1998: Ord. 1963 § 15, 1997)

6.13.080 Department requirements. (a) Each public utility to which this chapter applies or which intends to derive revenue from customers located within the county must, not later than the effective date of the ordinance codified in this chapter, or thirty calendar days before the public utility begins to provide service to those customers, whichever occurs later, provide to the department:

- (1) An acknowledgment that the public utility is operating or intends to operate within the county;
 - (2) The date when the public utility began or intends to begin to derive revenue from customers located within the county;
 - (3) A request for any information that is necessary to identify each of its customers affected by the fees imposed in this chapter and the specific form, if any, in which the information is requested; and
 - (4) A list of resellers or other marketers to whom the public utility has provided open access and of public utilities to whom it intends to provide capacity.
- (b) Each public utility to which this chapter applies must, not later than sixty calendar days after the end of each calendar quarter, provide to the department a statement on the form provided by the department of the amount of revenue the public utility derived during that calendar quarter from the provision of electric energy, gas, telecommunications services, or personal wireless service to each of its customers located within the county.
- (c) In addition to the record keeping requirements described in Section 6.08.090 of this code, every public utility to which this chapter applies is required to maintain adequate accounting records and supporting documentation for distinguishing its revenue from customers located within the county from revenue derived from customers located within the incorporated cities in the county. The department may audit the amounts due from any public utility under this chapter and the public utility has the right to appeal the audit results as described in Section 6.08.095 of this code.
- (d) Within thirty days following the end of each calendar quarter commencing with the quarter ending December 31, 2003, the public utility providing electric energy or gas shall submit to the department a report listing every customer that the public utility billed for transportation, transmission or distribution charges only, and their billing addresses.
- (Ord. 3189 § 9, 2005: Ord. 2840 § 3, 2002: Ord. 2734 § 12, 2002: Ord. 2093 § 13, 1998: Ord. 1963 § 16, 1997)

6.13.090 Facilities--Installation, construction or maintenance. (a) Installation, construction or maintenance of any public utility facility in the county's public right-of-way will be done in accordance with applicable county regulations.

- (b) Each public utility subject to this chapter must, when filing its application for a business license, submit a map and description of its system architecture that shows and describes the route and location of all facilities it uses in the county in a format compatible with the county's geographic information system as outlined in the rights-of-way master ordinance.
- (Ord. 3189 § 10, 2005: Ord. 1963 § 17, 1997)

6.13.100 Existing franchise or license agreement--Terms. Nothing in this chapter will be deemed to alter, modify or supersede the terms of any existing franchise or license agreement between the county and a public utility.

(Ord. 3189 § 11, 2005: Ord. 1963 § 18, 1997)

6.13.110 Fees--Collection. The fees imposed upon a public utility pursuant to this chapter must be collected by the public utility directly from its customers located within the county in proportion to the amount of revenue the public utility derives from each of such customers, unless the county has elected pursuant to NRS 354.59887 to collect said fees directly from the public utility's customers located within the county. The fees may be shown on the customer's bill, individually or collectively as "Clark County fees." The fees imposed upon a public utility by this chapter may be collected from a governmental entity of the state if that entity is a customer of the public utility.
(Ord. 3189 § 12, 2005: Ord. 2093 § 14, 1998: Ord. 1963 § 19, 1997)